

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

2007-12-03 17:00:00

CLERK OF COURT
U.S. DISTRICT COURT

**ATLAS COPCO AB, a Swedish
corporation,
ATLAS COPCO NORTH AMERICA
LLC, a Delaware limited liability
company,**

Plaintiffs,

vs.

Civil Action No. 1:07cv 1208

GBL/TCB

**ATLASCOPCOIRAN.COM,
ATLASCASPIAN.COM,
ATLASCASPIAN.NET,
ATLASCASPIAN.ORG,
ATLASCASPIAN.BIZ,
ATLASCASPIANIR.COM,
ATLASCASPIANIRAN.COM,
ATLASCASPIAN.US,
ATLASCASPIAN.CC,
ATLASCASPIAN.TV,
ATLAS-CASPIAN.COM,
all Internet domain names,
Defendants.**

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

1. Plaintiffs Atlas Copco AB, a Swedish corporation, and Atlas Copco North America LLC, a Delaware limited liability company (collectively "Plaintiffs"), allege the following in support of their *in rem* claim against the Internet Domain Names ATLASCOPCOIRAN.COM, ATLASCASPIAN.COM, ATLASCASPIAN.NET,

ATLASCASPIAN.ORG, ATLASCASPIAN.BIZ, ATLASCASPIANIR.COM,
ATLASCASPIANIRAN.COM, ATLASCASPIAN.US , ATLASCASPIAN.CC,
ATLASCASPIAN.TV, and ATLAS-CASPIAN.COM. (the "Defendant Domain Names"):

NATURE OF THE ACTION

2. Plaintiffs file this in rem action asserting a claim for cyberpiracy under the Anticybersquatting Consumer Protection Act ("ACPA"), 15 U.S.C. § 1125 *et seq.*

3. The Defendant Domain Names are confusingly similar to the trademark ATLAS COPCO and are being used with a bad faith intent to profit from Plaintiffs' substantial investment in the ATLAS COPCO trademark.

4. In bringing this lawsuit, Plaintiffs seek a preliminary and permanent injunction providing for the transfer of the Defendant Domain Names to Plaintiff Atlas Copco AB.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has in rem jurisdiction over the Defendant Domain Names pursuant to 15 U.S.C. § 1125(d)(2)(A)(ii)(I) in that Plaintiffs cannot obtain *in personam* jurisdiction over the registrants of the Defendant Domain Names because the registrants are located outside of the United States and are not subject to personal jurisdiction in the United States.¹ *In rem*

¹ The domain name ATLAS-CASPIAN.COM is purportedly registered to an entity located in the United States; however, the WHOIS information is false and fictitious. The telephone number for ATLAS-CASPIAN.COM is the telephone number of the registrar of several Defendant Domain Names, Online NIC. The mailing address is clearly incomplete. Further, the common

[Footnote continued on next page]

jurisdiction is proper in this district pursuant to 15 U.S.C. § 1125(d)(2)(C)(i) because the domain name registries of the Defendant Domain Names are located in this district. VeriSign Global Registry Services is the registry of the ".com," ".net," ".tv," and ".cc" extensions, and is located at 21345 Ridgetop Circle, Dulles, Virginia 20166. Public Interest Registry is the registry of the ".net" extension, and is located at 1775 Wiehle Avenue, Suite 102A, Reston, Virginia 20190. NeuStar, Inc. is the registry for the ".biz" and ".us" extensions, and is located at Loudoun Tech Center, 46000 Center Oak Plaza, Sterling, Virginia. Further, under 15 U.S.C. § 1125(d)(2)(C)(ii), upon commencement of this case, documents sufficient to establish control and authority regarding the disposition of the registrations of the Defendant Domain Names will be expeditiously deposited with the Court.

7. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and 15 U.S.C. §§ 1125(d)(2)(A) and (C) because the registries of the Defendant Domain Names are located in this district. Copies of the WHOIS records for the Defendant Domain Names are attached hereto as Exhibit A.

THE PARTIES

8. Plaintiff Atlas Copco AB is a corporation duly organized and operating under the laws of Sweden, with its principal place of business located at Sickla Industriväg 3, Nacka, SE-105 23, Stockholm, Sweden.

[Footnote continued from previous page]

ownership the Defendant Domain Names, including ATLAS-CASPIAN.COM is evidenced by the following facts: (1) ATLAS-CASPIAN.COM and the other Defendant Domain Names resolve to the same copy-cat website; (2) the fictitious entity "Atlas Caspian" is the registrant of ATLAS-CASPIAN.COM and several other Defendant Domain Names; and (3) the email address, registrar, and name servers for ATLAS-CASPIAN.COM are also used in conjunction with other Defendant Domain Names (see Exhibit E). All of the other Defendant Domain Names are purportedly registered to registrants located outside of the United States.

9. Plaintiff Atlas Copco North America LLC is a Delaware limited liability company, with its principal place of business at 34 Maple Avenue, Pine Brook, New Jersey 07058, whose ultimate parent company is Atlas Copco AB.

10. The Defendant Domain Names are listed in the WHOIS records as being registered to various individuals and entities located in Iran, India, and Afghanistan. Upon information and belief, and as more fully set forth in paragraph 25, Plaintiffs allege that the various registrants are mere alter egos of one or more individuals located in Iran, India, Afghanistan, or elsewhere.

FACTUAL BACKGROUND

Plaintiffs' Trademark Rights

11. Atlas Copco AB and its subsidiaries around the world are collectively known, including by the industry and the public, as the "Atlas Copco Group" and "Atlas Copco" (hereafter "Atlas Copco" or the "Atlas Copco Group"). Atlas Copco is a worldwide leader in providing industrial productivity solutions within three main business areas: compressors and generators, mining and construction equipment, and assembly systems and industrial tools. Within these three business areas, Atlas Copco markets and sells high quality products and services under the trademark ATLAS COPCO in approximately 150 markets throughout the world.

12. Atlas Copco AB's trademark use began in 1873, when it began operations using the name "Atlas." The name "Atlas," in various forms, including through Atlas Copco AB's prior names consisting of or incorporating the word "Atlas," has been used by Atlas Copco AB to identify Atlas Copco's goods and services for more than 130 years.

13. Atlas Copco customers frequently shorten the ATLAS COPCO trademark, and refer to Atlas Copco and Atlas Copco products simply as "Atlas."

14. Atlas Copco began using the trademark ATLAS COPCO in 1956, and since that time has used the ATLAS COPCO trademark to identify its goods and services throughout the world. The ATLAS COPCO trademark is inherently distinctive, and has acquired distinctiveness as a result of Plaintiffs' effort and investment over the past half century.

15. Plaintiffs have used the ATLAS COPCO trademark in the stylized format shown below (the "ATLAS COPCO LOGO") since at least 1962.



16. Atlas Copco AB owns trademark registrations for the ATLAS COPCO trademark and the ATLAS COPCO LOGO in the United States and in many other countries throughout the world. Atlas Copco AB acquired a registration for the ATLAS COPCO trademark and the ATLAS COPCO LOGO in the United States in 1989 as trademark registration number 1,526,505. Trademark registration number 1,526,505 is valid, unrevoked, subsisting, and incontestable, and constitutes *prima facie* evidence of Atlas Copco AB's exclusive ownership of the ATLAS COPCO trademark and the ATLAS COPCO LOGO. A copy of the registration for trademark registration number 1,526,505 is attached as Exhibit B.

17. Plaintiff Atlas Copco North America LLC is a licensee of Atlas Copco AB to use the ATLAS COPCO trademark and the ATLAS COPCO LOGO in the United States. In

addition, Atlas Copco North America LLC monitors infringement of and takes necessary action to enforce the ATLAS COPCO trademark in the United States.

18. Plaintiffs have expended significant monies and effort in advertising, promoting, enforcing, and developing the ATLAS COPCO trademark and the ATLAS COPCO LOGO throughout the world. As a result of such advertising and expenditures, Plaintiffs have established considerable goodwill in the ATLAS COPCO trademark. The mark has become widely known and recognized throughout the world as a symbol of high quality goods and services. The ATLAS COPCO trademark is associated by the industry and the public exclusively with Atlas Copco. The ATLAS COPCO trademark and the ATLAS COPCO LOGO and associated goodwill are invaluable assets of substantial worth to Plaintiffs.

19. Atlas Copco maintains informational websites through which various companies of the Atlas Copco Group display marketing information related to products and services offered by subsidiaries of Atlas Copco AB under the ATLAS COPCO trademark. Atlas Copco AB's official Internet website is available at ATLASCOPCO.COM. In addition, the Atlas Copco Group maintains other informational Internet sites (through which various subsidiaries of Atlas Copco AB display marketing information related to products and services offered by subsidiaries of Atlas Copco AB) specific to individual markets. In maintaining such sites, Atlas Copco pairs the ATLAS COPCO trademark (and the domain names that Atlas Copco AB registers) with geographic designations corresponding to a particular market. For example, the Atlas Copco website for the United States is ATLASCOPCO.US, the Atlas Copco website for Canada is ATLASCOPCO.CA, and the Atlas Copco website for the Netherlands is ATLASCOPCO.NL.

*The Defendant Domain Names are Confusingly Similar to Plaintiffs' Own
Domain Names and the ATLAS COPCO Trademark*

20. The Defendant Domain Names are confusingly similar to the ATLAS COPCO trademark. Each Defendant Domain Name combines either ATLAS COPCO or ATLAS with a geographic designator, similar to the pattern employed by Atlas Copco.² Moreover, further evidencing the confusing similarity, each of the Defendant Domain Names is being used to display a copy-cat website that is nearly identical to an official Atlas Copco website, as detailed in Paragraphs 21 and 22 below.

21. The Defendant Domain Name ATLASCOPCOIRAN.COM consists of ATLAS COPCO in its entirety coupled with the geographic term "Iran." The addition of such a geographic designation does nothing to dispel the confusing similarity between the domain name and the ATLAS COPCO trademark and domain names. In the context of domain names, one court specifically noted, "[w]e do not believe the Defendant's addition of a generic or geographic term . . . is sufficient to distinguish the domain name from Plaintiff's protected mark. An internet user might reasonably assume that [the geographic term] was added to the Plaintiffs' mark by the Plaintiff to identify its geographic location." Prime Publishers, Inc. v. Am.-Republican, Inc., 160 F.Supp.2d 266, 280 (D. Conn. 2001). In light of the foregoing and of Atlas Copco's practice of pairing the ATLAS COPCO trademark with geographic designations, the potential for confusion is more than likely—it is certain. This confusion is further ensured by the fact that the Defendant

² The pattern used by the Defendant Domain Names registrants, and their intent to duplicate Atlas Copco's geographic designation pattern (discussed in Paragraph 19 above) is further evidenced by the additional infringing domain names listed below in Paragraph 25, including but not limited to ATLASCOPCO.US.COM, ATLASCASPIAN.CA, and ATLASCASPIAN.NL.

Domain Name ATLASCOPCOIRAN.COM, as other Defendant Domain Names, displays a copy-cat site that looks almost identical to an official Atlas Copco site.

22. The Defendant Domain Names that contain the term "Atlas Caspian" are confusingly similar to the name "Atlas Copco" and the ATLAS COPCO trademark and domain names. This confusing similarity is intentionally enhanced by using the Defendant Domain Names to display copy-cat versions of official Atlas Copco websites.³ None of the copy-cat sites is in any way authorized by Atlas Copco. The copy-cat sites displayed by the Defendant Domain Names are virtually identical to official Atlas Copco sites; virtually all graphics and text on the copy-cat sites have been copied from an official Atlas Copco website, except that the name "Atlas Copco" in the text has in most instances been changed to "Atlas Caspian", and except that the ATLAS COPCO LOGO has been changed to an infringing "Atlas Caspian" logo (as discussed below). "Copyright notices" at the bottom of the copy-cat pages include the "company" name "Atlas Caspian AB", which in fact does not exist.⁴ The copy-cat sites have links (including links that say "Compressors and Generators") to other copy-cat sites, including the scam site ATLASCOPCO.US.COM which is part of a "phishing" scam as discussed in Paragraphs 27-29 below). The copy-cat websites use an infringing logo that says "Atlas Caspian"

³ To the extent that three of the Defendant Domain Names, ATLASCASPIANIR.COM, ATLASCASPIANIRAN.COM, and ATLASCASPIAN.US, do not currently display any websites, Plaintiffs allege, upon information and belief, that the registrants intend or are likely to make these Defendant Domain Names display copy-cat versions of Atlas Copco's official website and/or display other content infringing upon or damaging the goodwill of the ATLAS COPCO trademark.

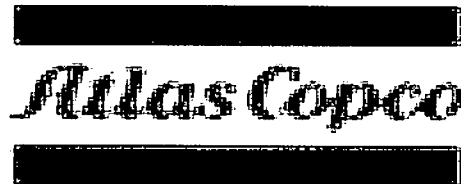
⁴ The corporate designation "AB" is a Swedish abbreviation for "aktiebolag" which means "corporation". There is no Swedish company named Atlas Caspian AB, and upon information and belief, there is no company anywhere named "Atlas Caspian". It appears that the term "Atlas Caspian" appeared for the first time when the Defendant Domain Names were registered and started displaying the copy-cat websites.

and which intentionally is a confusingly similar variation of the ATLAS COPCO trademark and ATLAS COPCO LOGO (with respect to the copy-cat/ phishing site ATLASCOPCO.US.COM, the site uses an exact replica of the ATLAS COPCO trademark and ATLAS COPCO LOGO). Exhibit C includes comparisons of some copy-cat webpages displayed at the Defendant Domain Names and the corresponding pages displayed at Atlas Copco's official website. Said infringing "Atlas Caspian" logo is depicted below.

Infringing "Atlas Caspian" Logo



ATLAS COPCO LOGO



*The Defendant Domain Names Were Registered and
Are Being Used in Bad Faith.*

23. Numerous facts demonstrate that the Defendant Domain Names have been registered and used in bad faith in violation of the ACPA. The Defendant Domain Names divert consumers from online locations of Atlas Copco. The copy-cat websites displayed by the Defendant Domain Names incorporate meta-tags consisting of the ATLAS COPCO trademark, many other Atlas Copco trademarks, the names of Atlas Copco products, and the names of Atlas Copco AB executives.⁵ These meta-tags have been copied from official websites of Atlas Copco. Copies of the metatags incorporated in the copy-cat websites are attached hereto as Exhibit D, and are compared to the meta-tags used by official websites of Atlas Copco. The use

⁵ Indeed, it appears that the only additional meta-tag incorporated in the copy-cat websites displayed by Defendant Domain Names is the name "ranjkar mohammad Reza ranjkar," the purported name of the registrant of several Defendant Domain Names.

of the ATLAS COPCO trademark and other trademarks owned by Atlas Copco in meta-tags evidences bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(V).

24. The registrant's provision of misleading and false contact registration information when applying for the registration of the Defendant Domain Names and intentional failure to maintain accurate contact information evinces bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(VII). Indeed, the registration information for each of the Defendant Domain Names is false, inaccurate, and incomplete. For example, the telephone numbers that the registrant provided when registering ATLASCOPCOIRAN.COM and ATLASCASPIAN.COM, 98.465465 and 98.65465465, respectively, are merely repeating patterns of the number sequences 465 and 654, and are invalid. The telephone number for ATLAS-CASPIAN.COM is the telephone number of the registrar of several Defendant Domain Names, Online NIC. Also, the same street, building number, city, and postal code are used for both ATLASCASPIAN.ORG and ATLASCASPIAN.BIZ even though the address for ATLASCASPIAN.ORG is purportedly in Iran and the address for ATLASCASPIAN.BIZ is purportedly in Afghanistan. These acts of deception and other deficiencies make it impossible for Plaintiffs to determine the true identities of the registrant of the Defendant Domain Names. Such conduct evidences bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(VII).

25. The individuals or entities responsible for registering the Defendant Domain Names have also registered many other variations of the ATLAS COPCO trademark evincing bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(VIII). The additional domain names registered by the registrant that are identical or confusingly similar to the ATLAS COPCO trademark include the following infringing domain names, which fraudulently display the same kind of copy-cat sites discussed in Paragraph 22 above.

atlascope.us.com
 atlascaspian.info
 atlascaspian.ca
 atlascaspian.cn

atlascaspian.name
 atlascaspian.bz
 atlascaspian.nl

atlascaspian.in
 atlascaspian.ws
 atlascaspian.eu

These infringing domain names are not part of the Defendant Domain Names in this case because the registries for these domain names are located outside of this district. For ease of comparison, the WHOIS information of the foregoing names and the Defendant Domain Names are shown in tabular form in Exhibit E. In comparing the information provided in the WHOIS database, the reoccurrence of various email addresses, physical addresses, names, registration dates, and DNS servers strongly suggest that the same person is responsible for registering the Defendant Domain Names and the foregoing names.

*The Defendant Domain Names Are Being Used
 in a Phishing Scheme*

26. The Defendant Domain Names are part of a "phishing" scam, involving a fraudulent version of Atlas Copco Connect, intended to acquire sensitive and confidential information from Atlas Copco and customers of Atlas Copco and/or deceiving customers of Atlas Copco into purchasing products from the owner of the Defendant Domain Names rather than Atlas Copco. Such fraudulent use of the Defendant Domain Names clearly evinces the registrant's intent to divert consumers from Atlas Copco's online location to a site accessible under the Defendant Domain Names that could harm the goodwill represented by the ATLAS COPCO trademark in violation of 15 U.S.C. § 1125(d)(1)(B)(i)(V).

27. Specifically, the Defendant Domain Names are being used to operate a copy-cat version of Atlas Copco Connect, an online product ordering system that Atlas Copco customers access by entering user-IDs and passwords for the purpose of placing and tracking orders for Atlas Copco products. The Defendant Domain Names direct visitors to a "phishing" website

located at <http://www.atlascopco.us.com/user/> (the specific phishing "log-in page" is arrived at by clicking on a link on the copy-cat sites, displayed by Defendant Domain Names, that says "Compressors and Generators" and then clicking on a link that says "Log into your Global Business Portal"). The "phishing" website is designed to look like an official Atlas Copco Connect website and replicates an earlier version of Atlas Copco Connect that recently was updated. The "phishing" website takes advantage of the fact that the scam domain name ATLASCOPCO.US.COM is nearly identical to an official Atlas Copco domain name and website at ATLASCOPCO.US in order to lure visitors into believing that they are in the process of logging into the official Atlas Copco Connect site. Thereby the phishing site fraudulently obtains the official Atlas Copco Connect log-in IDs and passwords of such visitors. The Atlas Copco Connect log-in IDs and passwords may then be used by the perpetrators of this scam to fraudulently log into the official Atlas Copco Connect, access sensitive or confidential information of Atlas Copco and/or Atlas Copco customers, and/or engage in other harmful conduct.

28. The "phishing" website prominently displays the ATLAS COPCO trademark and the ATLAS COPCO LOGO. A comparison of the fraudulent version of Atlas Copco Connect available at ATLASCOPCO.US.COM (at <http://www.atlascopco.us.com/user/>) and Atlas Copco's official Atlas Copco Connect is attached hereto as Exhibit F. The use of the Defendant Domain Names in conjunction with a "phishing" scam evidences bad faith.

29. Atlas Copco has not authorized the use of the ATLAS COPCO trademark or the ATLAS COPCO LOGO in connection with the Defendant Domain Names.

CLAIM FOR RELIEF

(Cyberpiracy)

30. The allegations set forth above are incorporated herein by this reference.

31. The actions described above evidence bad faith intent to profit from the registration or use of the ATLAS COPCO trademark and confusingly similar variations thereof in domain names.

32. Plaintiffs are entitled to an order and injunction immediately transferring the Defendant Domain Names to Plaintiff Atlas Copco AB.

WHEREFORE, Plaintiffs pray for judgment as follows:

A. That VeriSign Global Registry Services be ordered to change the registrar of ATLASCOPCOIRAN.COM, ATLASCASPIAN.COM, ATLASCASPIAN.NET, ATLASCASPIANIR.COM, ATLASCASPIANIRAN.COM, ATLASCASPIAN.CC, ATLASCASPIAN.TV and ATLAS-CASPIAN.COM to Network Solutions, LLC;

B. That Public Interest Registry be ordered to change the registrar of ATLASCASPIAN.ORG to Network Solutions, LLC;

C. That NeuStar, Inc. be ordered to change the registrar of ATLASCASPIAN.US and ATLASCASPIAN.BIZ to Network Solutions, LLC;

D. That Network Solutions, LLC be ordered to register the Defendant Domain Names in the name of Atlas Copco AB; and

E. For such other relief that that the Court may consider just and appropriate.

Respectfully submitted,

**ATLAS COPCO AB and
ATLAS COPCO NORTH AMERICA LLC**

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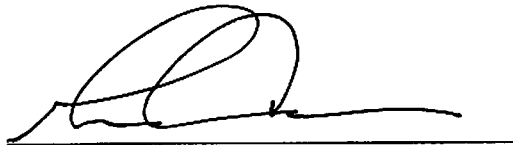
Attorneys for Plaintiffs

VERIFICATION

Greg Taylor, under penalty of perjury of the laws of the United States declares:

That he is Vice President of Atlas Copco North America LLC, and attorney in fact for Atlas Copco AB; that he has read, is familiar with, and has personal knowledge of the contents of the foregoing Verified Complaint and that the allegations thereof are true and correct. To the extent that matters are not within his personal knowledge, the facts stated therein have been assembled by authorized personnel, including counsel, and he is informed that the facts stated therein are true and correct.

Executed this 28th day of November 2007 in Pine Brook, New Jersey.

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a horizontal line extending to the right.

Greg Taylor